UNITED STATES DISTRICT COURT DISTRICT OF NEVADA

RIGHTHAVEN LLC, a Nevada limited-liability company,

Plaintiff,

DEMOCRATIC UNDERGROUND, LLC, et al., Defendants.

Case No. 2:10-cv-01356-RLH-GWF ORDER Motion to Compel (#95)

This matter is before the Court on Defendant/Counterclaimant Democratic Underground, LLC's Motion to Compel the Production of Documents from Plaintiff/Counterdefendant Righthaven, LLC and Counterdefendant Stephens Media LLC (#95), filed on April 28, 2011, Counterdefendant Stephens Media LLC's Response to the Motion to Compel (#105), filed on May 16, 2011, Plaintiff/Counterdefendant Righthaven LLC's Response to the Motion to Compel (#106), filed on May 18, 2011, and Defendant/Counterclaimant Democratic Underground, LLC's Reply in Support of Motion to Compel (#112), filed on May 26, 2011. The Court conducted a hearing in this matter on June 9, 2011.

Defendant/Counterclaimant Democratic Underground, LLC moves to compel Plaintiff/Counterdefendant Righthaven, LLC and Counterdefendant Stephens Media, LLC to produce all documents responsive to Democratic Underground's requests for production relating to (1) the creation of Righthaven and (2) the assignment of the copyright at issue in this case, including communications required by and relating to the Strategic Alliance Agreement between Righthaven and Stephens Media. On June 14, 2011, the District Judge issued an order in this case dismissing Plaintiff Righthaven's complaint based on lack of standing to bring this copyright infringement action. *Order (#116)*. Specifically, the Court found that the Strategic Alliance

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Agreement between Righthaven and Stephens Media precluded the assignment to Righthaven of any of the exclusive rights identified in 17 U.S.C. § 106 which are necessary to confer ownership on the assignee. *See Silvers v. Sony Pictures Entm't Inc.*, 402 F.3d 881, 884 (9th Cir. 2005) (*en banc*). Although Democratic Underground may still pursue recovery of costs and attorney's fees against Righthaven, and Democratic Underground's counterclaim against Stephens Media remains pending, the District Court's order disposes of the need for Democratic Underground to obtain the discovery which is the subject of the instant motion to compel. Accordingly,

IT IS HEREBY ORDERED that Defendant/Counterclaimant Democratic Underground, LLC's Motion to Compel the Production of Documents from Plaintiff/Counterdefendant Righthaven, LLC and Counterdefendant Stephens Media, LLC (#95) is **denied as moot.** DATED this 16th day of June, 2011.

U.S. MAGISTRATE JUDGE